

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

RSA No. 3937 of 2018 (O&M)
Date of decision : July 05, 2018

Lalit and others

..... Appellants.

v.

Smt. Bimla Devi and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present : Mr. Piyush Aggarwal, Advocate
for the appellants.

Ajay Tewari, J (Oral)

C.M No.10273-C of 2018

This is an application for bringing on record L.Rs of appellant No.6-Sushila Devi who is stated to have died in the year 2011. For the reasons recorded, this application is allowed subject to just exceptions and the persons mentioned in paragraph 2 are impleaded as L.Rs of appellant No.6.

RSA No.3937 of 2018

This appeal has been filed against the concurrent judgments of the Courts below decreeing a suit filed by the plaintiff/respondent No.1. The claim of the plaintiff was that she had purchased the plot in dispute from Jaishi Ram Goel but within a few days of the purchase, the appellants demolished a wall existing thereon. Both the Courts below having decreed

the suit, the applicants are before this Court.

Counsel for the appellants has argued that respondent No.1 was not able to conclusively link the plot in dispute with herself. As per him, she had claimed that she had purchased the plot in dispute from Jaishi Ram Goel and had placed the sale deed on record but had not placed any document on record which would prove the title of her vendor. Consequently, her case should have been dismissed.

Both the Courts below have considered this argument. In my opinion, in normal circumstances, it would be incumbent upon the plaintiff to prove the title of his/her vendor but that has to be seen through the perspective of the case set up by the other side. The case of the appellants is that the plot in dispute was a part of their ancestral property but they also did not lead any evidence of the same. Having seen the plan and the juxtaposition of the plot in dispute vis a vis the property of the appellants and the respondent, it does not seem that the plot in dispute was a part of the ancestral property of the appellants but more likely an independent plot. It is a piece of land of the size 10'x20' at a right angle at the middle of the property of the appellants which is otherwise about 30'x100'. It could more easily be believed that it would have been a part of the property of the appellants if their case had been that they had sold the land to respondent No.1 and Daya Kishan in the first place and there could have been some link, but as the matter stands the plot in dispute does not seem to be a part of the property of the appellants. Counsel for the appellants has not been able to persuade me that the findings recorded by the Courts below are either based on no evidence or are based on such misreading of evidence so as to render the same so perverse as to be liable for interference under Section

100 of the CPC. Consequently, this appeal is dismissed.

Since the main case has been decided, the pending C.Ms, if any, also stand disposed of.

July 05, 2018
'kk'

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No